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March 22, 2005

Secretary Michael Chertoff
 U.S. Department of Homeland Security
 Washington, DC 20528

Dear Secretary Chertoff:

I understand the Department of Homeland Security has announced an agreement with Wal-Mart, settling federal charges that the company used illegal immigrants to clean stores in 21 states.

According to press accounts of the settlement, Wal-Mart has agreed to pay \$11 million in fines and implement an internal compliance program.

At my urging, the Department of Labor's Inspector General has begun a review of a settlement agreement between his Department and Wal-Mart involving child labor. The child labor agreement, which includes a 15-day advance notice to Wal-Mart before the Department conducts any wage and hour audit or investigation, is an example of how *not* to deter violations of the law or ensure future compliance. In what can only be described as an understatement, Labor Secretary Elaine Chao has acknowledged that the document is "not well-written."

As with the child labor agreement, questions regarding the illegal immigrant agreement have been raised as to the deterrent effect of an \$11 million fine for violations in 21 states against a company with \$288.2 billion in annual sales. I understand that many of these workers worked seven days a week, were often locked inside the stores, and were not always, if ever, paid time-and-a-half for overtime work. Have federal prosecutors or your Department conducted any economic analysis of the financial gain Wal-Mart achieved by utilizing contractors who employed undocumented workers under these circumstances?

I also understand that this settlement is now purely a civil matter and that the United States Government has chosen not to pursue criminal charges against Wal-Mart. Citing federal law enforcement officials, press reports have indicated that at least some Wal-Mart executives knew of the immigration violations and that Wal-Mart had continued to use contractors who had already been convicted of hiring illegal immigrants. What is the basis for the decision to not pursue criminal charges against Wal-Mart?

The Honorable Michael Chertoff
March 22, 2005
Page 2 of 2

Please provide me with that explanation, as well as a copy of any analysis conducted on the financial gain Wal-Mart achieved by utilizing these contractors and a copy of the actual settlement agreement regarding Wal-Mart's use of undocumented workers. Additionally, if you have any similar settlement agreements with other employers implementing internal compliance programs, please provide a few samples. Please provide these materials by April 5, 2005.

Thank you very much for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "George Miller". The signature is written in a cursive, flowing style. The first part of the signature, "George", is written with a large, looping "G" that extends to the left. The last name, "Miller", is written in a more compact, cursive script.

GEORGE MILLER
Ranking Democrat
Committee on Education and the Workforce
U.S. House of Representatives